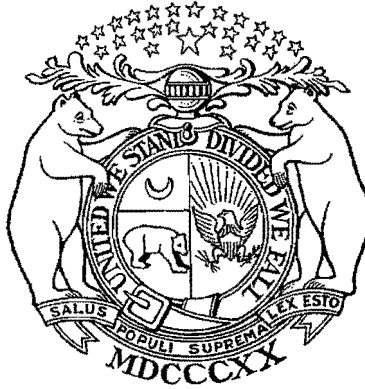


Report of the Missouri Citizens' Commission on Compensation for Elected Officials

24 November 2010



Missouri Citizens' Commission on Compensation for Elected Officials

24 November 2010

The Honorable Robin Carnahan
Secretary of State
600 West Main Street
Jefferson City, MO 65102

Mr. Russell L. Hembree
Director, Joint Committee on Legislative Research
Acting Revisor of Statutes
117-A State Capitol Building
201 W. High St.
Jefferson City, MO 65101

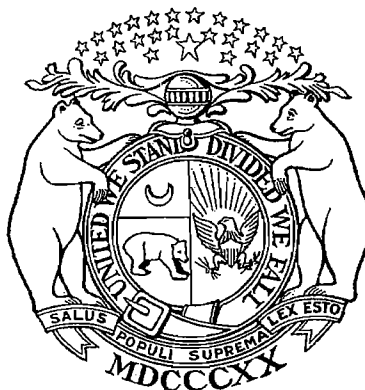
Dear Secretary of State Carnahan and Mr. Hembree:

Article XIII, section 3 of the Missouri Constitution requires that the Missouri Citizens' Commission on Compensation for Elected Officials file its report no later than December 1.

The commission hereby files its report. The report is attached and contains the schedule of compensation required.

Sincerely,

Ms. Vicki Benson
Chair



Report of the Missouri Citizens' Commission on Compensation for Elected Officials

24 November 2010

A. INTRODUCTION

Pursuant to article XIII, section 3 of the Missouri Constitution, the Citizens' Commission on Compensation hereby submits the following report establishing a compensation schedule for Missouri's statewide elected officials, legislators and judges.

This commission has had the honor of traveling across this state to hear testimony about this important subject and is convinced that the compensation of all of the officials subject to this report is lower than what should be paid for positions of this importance. However, it also has become clear from our meetings that judges are unique among the officials subject to the recommendations of this commission for at least two reasons that are significant to our deliberations. First, judges do not operate generally in the political context that by definition determines the roles of both statewide elected officials and members of the General Assembly. Judges are driven instead by facts and the law – and both the facts and the law in recent years surrounding judicial compensation point to an unfortunate lack of action on the reports of this commission, which we intend to rectify with this report. Second, judges are full-time employees, not part-time public servants, and tend to come to judicial service later in life than those who come to public service by election to political office in the legislative or executive branches.

These facts are relevant to this commission for various reasons. Because judges generally expect or seek to retain the positions they hold for a longer period of time – and because they hold that role full-time and are actually prevented by law from practicing law on the side – they must have an interest in their compensation. Members of the political branches, if they so choose, can forego addressing the issue of their own compensation, fearing the political obstacles presented by the issue and assured in the knowledge that, in the end, their current role is not their full-time profession. Missouri's judges do not have this luxury. They are totally subject to the effectiveness of this commission and to the subsequent adoption or rejection of its reports by the General Assembly.

In this context, this commission's work in determining judicial pay is perhaps its most important determination of all. Based on the information and recommendations presented at our various meetings by a diverse representation by lawyers, judges, retired judges and persons in the business community, the commission has become convinced that it is beyond time to devise a more reasonable – and, we hope, a more permanent – means of determining judicial salaries in Missouri once economic conditions are favorable for implementation. Accordingly, we propose what we believe is a viable long-term option: indexing Missouri judicial salaries to a percentage of the corresponding judicial position in the federal system.

The dynamic between the political branches' willingness to forego salary increases and the judiciary's ongoing demonstrated need and willingness to pursue such increases presents a dichotomy that this commission must address. This commission, therefore, is forced to concede that recommending any kind of increase for legislators or statewide elected officials at this time might cause its entire report to be rejected. The commission believes that such increases are warranted but hopes that by implementing this report, it at least can begin to address the demonstrated needs of the judiciary. It also hopes it can initiate some discussion with legislators and statewide elected officials about future increases for those branches of government. In the end, however, the commission no longer can tolerate the continued rejection of sensible, moderate pay increases for judges due to the near-term political concerns that have prevented far too many of this commission's reports from taking effect.

As we believe each commission before ours has done, current commission members performed their due diligence by reviewing past commission reports. We also analyzed, and gratefully acknowledge the submission of, the comparative salary information and proposals brought forward by judicial officials, as well as other relevant data we requested from various presenters. This information – detailing significant salary gaps between Missouri judges and other judges, other attorneys in Missouri and other public-sector executives in Missouri – has proved critical in writing this report. The commission also met on four different occasions. Information regarding those meetings, as well as a listing of current commission members, is in section D of this report.

In making its final recommendations, the commission was compelled to balance the state's and nation's current economic situation with the long-term need for a functional compensation structure for the state's judges. When combined with the fact that many of the past reports of this commission either have been disapproved or unfunded, the commission is even more compelled to find a long-term solution to this problem despite the current economic crisis. To balance the current economic situation with these ongoing long-term needs, therefore, the commission submits its official schedule of compensation as described in section B of this report.

B. OFFICIAL SCHEDULE OF COMPENSATION

1) FOR STATEWIDE ELECTED OFFICIALS

This schedule specifically authorizes a compensation structure identical to that which exists for statewide elected officials in fiscal 2011.

The compensation payable to each statewide elected official for fiscal 2012 and 2013 shall be equal to the compensation being paid to each such official for fiscal 2011.

The mileage reimbursement rate allowed for such officials shall be the same as that authorized by law for state employees.

2) FOR MEMBERS OF THE GENERAL ASSEMBLY

This schedule specifically authorizes a compensation structure identical to that which exists for members of the General Assembly in fiscal 2011.

The compensation payable to each member of the General Assembly for fiscal 2012 and 2013 shall be equal to the compensation being paid to each such member for fiscal 2011, including the leadership differentials being paid to those officials entitled to such differentials in fiscal 2011.

The mileage reimbursement rate allowed for such officials shall be the same as that authorized by law for state employees. The per diem rate allowed for such officials shall be the same as that authorized by section 21.145, RSMo.

3) FOR JUDGES

This schedule provides that each state judge's salary shall be indexed to the commensurate judicial position in the federal system: the chief justice of the Supreme Court of Missouri shall be indexed to the salary of the chief justice of the Supreme Court of the United States; all other judges of the Supreme Court of Missouri shall be indexed to the salaries of the associate justices of the Supreme Court of the United States; all judges on the Missouri court of appeals shall be indexed to the salaries of the judges on the federal circuit courts of appeals; all Missouri circuit judges shall be indexed to the salaries of judges on the federal district courts; and all Missouri associate circuit judges shall be indexed to the salaries of federal magistrates.

Official Schedule of Judicial Salaries for Fiscal 2012 and 2013

Fiscal	Chief Justice	Supreme Court Judge	Court of Appeals	Circuit Judge	Associate Circuit Judge
2012	Missouri fiscal 2011 salary	Missouri fiscal 2011 salary	Missouri fiscal 2011 salary	Missouri fiscal 2011 salary	Missouri fiscal 2011 salary
2013	69% of federal chief justice salary	69% of federal Supreme Court associate justice salary	73% of federal circuit court of appeals judge salary	73% of federal district court judge salary	73% of federal magistrate salary

The mileage reimbursement rates allowed for such officials shall be the same as that authorized by law for state employees.

C. CONCLUSION

We believe the official schedule set out in section B above will begin to provide the long-needed structural change in judicial compensation that the testimony clearly showed to be necessary. Although these amounts may change depending on the level of federal judicial compensation at the time these recommendations take effect, it is necessary for purposes of transparency to inform readers of this report about the effects of this schedule were it to take effect today.

For fiscal 2012 (beginning July 1, 2011), there is no change in salary for any judge in Missouri. In recognition of the difficult budget year that the state of Missouri will face in fiscal 2012, the commission determined that an increase in that fiscal year would be unwise.

For fiscal 2013 (beginning July 1, 2012), the schedule would result in salaries of \$154,215 for the chief justice, \$147,591 for judges of the Supreme Court, \$134,685 for judges of the Court of Appeals, \$127,020 for circuit judges and \$116,858.40 for associate circuit judges.

As a caveat to the salaries described above, it is significant that the pension law changes (House Bill No. 1, 2010 extraordinary session) that take effect Jan. 1, 2011, require judges coming to judicial service after Jan. 1, 2011, to pay 4 percent of their salaries to help fund their pensions. For judges who begin their judicial careers in 2011 and after, therefore, salaries will be 4 percent less than those of their longer-serving counterparts.

By indexing salaries of Missouri judges to their federal counterparts, this commission hopes it may achieve a lasting solution to the problem of inadequate judicial compensation in this state and, therefore, provide the means to attract and retain the best possible judges to the bench. This commission hopes with all sincerity that its most recent effort at providing a solution to the ongoing need to increase judicial salaries will bear fruit.

We note that judges have not received any increase since fiscal 2009 (now nearly three years ago) and also did not receive any increase whatsoever for seven successive fiscal years (from fiscal 2001 through fiscal 2007). When one combines this lack of increases to the fact that the judiciary as a whole receives about 2 percent of the state's general revenue budget and less than 1 percent of the state's total budget – despite a statewide caseload of approximately 800,000 newly filed cases in fiscal 2009 and a judge shortage of approximately 54 judges statewide based on a recent study by the National Center for State Courts – the need for increases in judicial salaries over the long term becomes all the more glaring. This need is immediate, as further evidenced by the fact that over the last 10 years, five Supreme Court judges and at least 15 Missouri court of appeals judges have left the bench voluntarily prior to the mandatory retirement age. Such a continued loss of experienced and highly qualified members of the judiciary cannot be allowed to continue.

Despite these challenges, this commission's members retain optimism for the success of this report. By creating a structure in which no increases are given during the expected budget difficulties of fiscal 2012, we hope we have balanced the need for these increases with a corresponding sensitivity to the state's current economic situation.

The commission hopes that its future members will be able to start a dialogue with the statewide elected officials and legislators, none of whom presented any evidence to this commission and, therefore, received no recommended increases, despite the fact that many commission members believed that both legislators and statewide elected officials very likely were worthy of such increases. In addition, this commission's members wish to make some recommendations to the governor and the legislature as to this commission's structure – recommendations that we believe greatly would increase the effectiveness of this body's work:

1. The time in which commissioners are appointed – and the time during which this commission is asked to meet – both should be expanded to reflect the need for a better researched, more deliberative approach to the important matter of studying and recommending compensation.
2. The commission should be convened annually so that its members may receive testimony and consider long-term issues in the commission's non-report year. We hope this will enable us to dialogue with members of the General Assembly and with statewide elected officials as well as continue ongoing deliberations over judicial salaries that we intend to continue.
3. The General Assembly, if it wishes not to approve its own pay raises, should consider the concept of decoupling its salary schedule from that of the judges and the statewide elected officials.
4. If decoupling is not considered an option, the General Assembly should expand the commission's authority to eliminate any legislative approval or disapproval of this commission's recommendations. Given the politically charged nature of approving, or being seen as having approved, one's own pay increase, the General Assembly should consider eliminating the current structure whereby it may reject reports by a two-thirds majority vote of both houses.

The commission wishes to thank those persons who took time to testify before this body; your service to this process is invaluable, and we hope that it will be rewarded. We hope those who read this report with the knowledge that it is their responsibility to adopt or reject its recommendations will consider the long-term effects of their deliberations. It is undoubtedly in the best interests of the citizenry of this state to pay our highest government officials a salary that is commensurate with the high level of importance to the welfare of the people of this state that each of these offices carries. If we are to live out the words inscribed on our state seal, "Salus Populi Suprema Lex Esto" (translated to "Let the Welfare of the People be the Supreme Law)," we cannot continue to ask those charged with the constitutional duty of protecting that welfare to do so without providing some semblance of reasonable compensation for the work they perform.

The commission urges every member of the General Assembly to consider this report in that context, knowing that a democracy can be only as strong as its most vulnerable citizens. Should we on this commission and those persons in the General Assembly not do all that we can to assure that the arbiters tasked with the duty of protecting the rights of those vulnerable citizens are as well-compensated as reasonably can be expected? We believe we owe the citizens of this state nothing less.

D. MEETING INFORMATION AND COMMITTEE MEMBERSHIP

The commission met and received testimony at four public meetings, as required by the constitution:

- | | |
|--|---|
| 1. 9:30 a.m. to 12:30 p.m.
Monday, Nov. 15, 2010
Landers State Office Building
149 Park Central Square, Room 813
Springfield, Missouri | 3. 9 a.m. to noon
Thursday, Nov. 18, 2010
Fletcher Daniels Building
615 East 13th Street, Room 501
Kansas City, Missouri |
| 2. 9 a.m. to noon
Tuesday, Nov. 16, 2010
Wainwright State Office Building
111 North 7th Street, Room 116
St. Louis, Missouri | 4. 9 a.m. to noon
Wednesday, Nov. 24, 2010
Missouri State Capitol Building
201 West High Street
Senate Hearing Room 2 (First Floor)
Jefferson City, Missouri |

The members of the 2010 Citizens' Commission on Compensation are:

Chair – Vicki Benson, Kirksville	Timothy A. Hufker, St. Louis
Elizabeth Banwart, Liberal	Julie Hurst, Tarkio
Robert Barrett, Nevada	Jerry King, Butler
Patricia Bolz, Kirksville	Marion George McGuinn, Florissant
Bill Burch, Sikeston	Don Mills, El Dorado Springs
Andrea Marie Burkholder, Lathrop	Cedric Levi Shirley, Aurora
Erin Cotter, St. Louis	Thomas Shrout, St. Louis
Judith Davidson, Cottleville	Thomas Theiss, Independence
Gene Denekas, Columbia	Paul Walle, Manchester
Phylis Lee Gilbert, Springfield	Mary Lou White, Bismarck
Hon. John Holstein, Springfield	Terry Winkler, Miller

E. ADDITIONAL INFORMATION

Attached to this report is an informational report provided to the commission before it began meeting. This informational report formed a basis for many of the commission's discussions.